No. 96-156

FILED
DEC 30 1996
CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1996

WALKER L. CHANDLER; SHARON T. HARRIS;
JAMES D. WALKER,
Petitioners,

v.

ZELL D. MILLER, Governor;
MAX CLELAND, Secretary of State;
JAMES G. LEDBETTER, Commissioner
Department of Human Resources, State of Georgia,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

BRIEF AMICI CURIAE OF THE WASHINGTON LEGAL FOUNDATION AND PARENTS' ASSOCIATION TO NEUTRALIZE DRUG & ALCOHOL ABUSE, INC. IN SUPPORT OF RESPONDENTS

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IN THE
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No. 96-126

WALKER L. CHANDLER; SHARON T. HARRIS; JAMES D. WALKER,
Petitioners,
v.
ZELL D. MILLER, Governor; MAX CLELAND, Secretary of State; JAMES G. LEDBETTER, Commissioner Department of Human Resources State of Georgia
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BRIEF AMICI CURIAE OF THE WASHINGTON LEGAL FOUNDATION AND PARENTS' ASSOCIATION TO NEUTRALIZE DRUG & ALCOHOL ABUSE, INC. IN SUPPORT OF RESPONDENT

INTERESTS OF AMICI CURIAE

The Washington Legal Foundation (WLF) is a non-profit public interest law and policy center based in Washington, D.C., with supporters nationwide. While WLF engages in litigation and the administrative process in

a variety of areas of the law, WLF devotes a substantial portion of its resources to supporting the Nation's war against drug abuse. To that end, WLF has appeared as an amicus curiae before federal and state courts in cases involving drug testing. *See, e.g., Vernonia Sch. Dist. 47J v. Acton*, 115 S. Ct. 2386 (1995); *National Treasury Employees Union v. von Raab*, 489 U.S. 656 (1989); *Willner v. Thornburgh*, 928 F.2d 1185 (D.C. Cir. 1991), *Loder v. City of Glendale*, 34 Cal. Rptr. 2d 94 (Cal. App. 2 Dist. 1994).

Parents' Association to Neutralize Drug & Alcohol Abuse, Inc. (PANDAA) is a national non-profit organization dedicated to curtailing illegal drug use, especially by our Nation's youth. PANDAA has appeared with WLF as amicus curiae in cases involving drug testing, including *Vernonia School District 47J*, and believes that drug testing requirements in this case for candidates for office sends a strong message to our youth that those who seek to hold office to enact or enforce our drug laws are themselves even subject to drug testing. By letters filed with the Clerk of the Court, the parties have consented to the filing of this brief.

SUMMARY OF ARGUMENT

The State of Georgia requires candidates for specified elective offices to certify that they have taken and passed a drug test. The statute imposes a reasonable requirement that candidates demonstrate fitness for office.

States can and do impose a wide variety of restrictions on candidates for office. So long as states do not discriminate against particular viewpoints, they should be

permitted to impose restrictions that are rationally related to the duties of the office.

A drug testing requirement does not impose a viewpoint restriction. A candidate's policy views on drug legalization or drug testing are not affected by compliance with this requirement. Otherwise, candidates opposed on policy grounds to other ballot access requirements, such as financial disclosure or campaign finance laws, could seek to avoid compliance on the same theory.

The State of Georgia has a very strong interest in deterring drug users from seeking and holding public office. Drug users demonstrate a willingness to engage in unlawful conduct that is incompatible with the public trust reposed in elected officials. Drug using public officials are subject to blackmail and the temptation to engage in corrupt conduct to fund a drug habit. If a state can insist that its police officers and prison guards be drug free, then the same demand can legitimately be made of its legislators, judges, and other high elected officials. Otherwise, the state would engage in a double standard in which high-ranking officials are exempt from the requirements imposed on rank-and-file employees.

Although drug use by high-ranking officials may be relatively rare, it is not unknown and the consequences may be much more severe than in the case of an ordinary state employee. The Constitution does not preclude a state from determining that drug testing is a reasonable means to assure the fitness of candidates for office.

ARGUMENT

I. THE CONSTITUTION ALLOWS STATES TO IMPOSE A WIDE VARIETY OF ELIGIBILITY REQUIREMENTS FOR HOLDING STATE AND LOCAL OFFICE IF THE REQUIREMENTS RATIONALLY RELATE TO THE DUTIES OF THE OFFICE

A. States Possess Broad Authority to Establish the Qualifications for Elective Office

States generally have broad powers to determine the qualifications of voters and candidates. *Bullock v. Carter*, 405 U.S. 134, 140-41 (1972).

> States have evolved comprehensive, and in many respects complex, election codes regulating in most substantial ways . . . the time, place, and manner of holding primary and general elections, the registration and qualifications of voters, and the selection and qualification of candidates.

Storer v. Brown, 415 U.S. 724, 730 (1974).

Election laws inevitably impose burdens on the speech and associational rights of candidates and voters, but

> not all restrictions imposed by the States on candidates' eligibility for the ballot impose constitutionally suspect burdens on voters' rights to associate or to choose among candidates.

Anderson v. Celebrezze, 460 U.S. 780, 788 (1983). Thus, while the right to vote is undeniably a fundamental right, the right to present oneself as a candidate has never been afforded fundamental status. *E.g.*, *Bullock*, 405 U.S. at 142-43; *City of Akron v. Bell*, 660 F.2d 166, 169 (6th Cir. 1981); *Adams v. Askew*, 511 F.2d 700, 703 (5th Cir. 1975); *Hankins v. Hawaii*, 639 F. Supp. 1552, 1555 (D. Haw. 1986). "Far from recognizing candidacy as a 'fundamental right,'" the Court has "held that the existence of barriers to a candidate's access to the ballot 'does not of itself compel close scrutiny.'" *Clements v. Fashing*, 457 U.S. 957, 963 (1982) (quoting *Bullock*, 405 U.S. at 143); *see also Burdick v. Takushi*, 504 U.S. 428, 433 (1992).

B. Mandatory Drug Testing Is an Eligibility Requirement for Holding Public Office That Is Similar to Other Types of Candidate Qualifications

Georgia's drug testing requirement for prospective candidates is not an isolated limitation on access to the State and local ballot. Rather, Georgia's law, O.C.G.A. section 21-2-140, is only one of several eligibility requirements that Georgia has democratically determined are suitable prerequisites for public office. Georgia has identified the following persons as ineligible to stand for election to State and local offices:

> Persons who are not qualified voters in Georgia;
>
> Persons who are not citizens of Georgia;
>
> Persons who are not twenty-one (21) years of age, except certain local offices are available to persons eighteen (18) years old and above;

Persons who are candidates for county or municipal offices but who have not been residents of the county or municipality for the preceding twelve (12) months;

Persons who hold or receive public monies for the State or any county but who have refused to account or pay for same when called upon to do so by the appropriate government official;

Persons who have been convicted of a felony involving moral turpitude under the laws of Georgia or any other state if the offense is also a felony in that state, unless the person's rights of citizenship have been fully restored by pardon;

Persons who hold any elective or appointive office in the federal government, other than that of postmaster or as a member of the armed forces, as well as persons holding any elective or appointive office in the government of any other state; and

Persons who are of unsound mind or, who because of advanced age or bodily infirmity, are incapable of discharging the duties of the elective office.

GA. CODE ANN. § 45-2-1(1)-(6) (1996).[1] Georgia's eligibility requirements are comparable to the

[1]These candidate qualifications also apply to office holders and are sufficient grounds for vacating any State or local office. GA. CODE ANN. § 45-2-1.

comprehensive ballot access statutes enacted by other States.[2]

Moreover, Georgia's drug testing requirement for prospective candidates is a ballot access regulation that is of a character similar to candidate eligibility requirements adopted by States and municipalities throughout the nation. For example, many States condition a candidate's eligibility for elective office or an office holder's right to remain in office on the age of the candidate.[3] Most States disqualify voters and candidates who have been convicted of a felony

[2]*See, e.g.*, ILL. COMP. STAT. ANN. 5/3.1-10-5 (West 1996); IND. CODE ANN. § 3-8-1-5 (West 1988); IOWA CODE ANN. § 43.67 (West 1991); MICH. COMP. LAWS ANN. § 201.3 (West 1989) (listing many of the same qualifications identified in the Georgia statute as grounds for vacating an elected office); MISS. CODE ANN. §§ 23-15-11, 23-15-299 (1995); N.Y. PUB. OFF. LAW § 3 (McKinney 1988); 25 PA. CONS. STAT. ANN. § 2911 (West 1994).

[3] Most States have adopted minimum age requirements as prerequisites for holding public office. See Appendix A for survey of statutes setting minimum age requirements. Several States have enacted maximum age requirements for elected positions such as judicial offices. *See, e.g.*, MI. COMP. LAWS ANN. §§ 168.392a, 168.413a, 168.426a (West 1989) (requiring candidates for state judiciary to certify that they "will not have attained age 70 years prior to the date of election"); VT. CONST. CH. II, § 35 (1985) (imposing mandatory retirement age of 70 for members of Vermont judiciary); MO. CONST. ART. V, § 26 (1989) (imposing mandatory retirement age of 70 on state court judges). *See also Gregory v. Ashcroft*, 501 U.S. 452, 473 (1991) (rejecting equal protection challenge to Missouri's mandatory retirement provision under a rational basis test).

or of crimes involving moral turpitude.[4] Some States do not allow persons who are mentally incompetent to run for office or vote.[5] Many jurisdictions impose educational or professional requirements on candidates for certain types of elected positions such as judgeships or school superintendents.[6] Some States have adopted so-called "resign-to-run" statutes that prevent a candidate from simultaneously seeking two elected offices or from pursuing an elected position if he or she already holds

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[4] See Appendix B for survey of statutes disqualifying candidates and office holders because of criminal convictions.

[5] See Appendix C for survey of statutes disqualifying candidates of unsound mind or vacating public offices upon a determination of mental incompetence.

[6] See Appendix D for survey of statutes requiring candidates for judicial offices and prosecuting attorneys to be lawyers who have been active members of the state bar. In addition, some States require a candidate to demonstrate unique training or educational experience before becoming a candidate for special elected positions. *See, e.g.*, ILL. COMP. STAT. ANN. 5/3-1 (West 1993) (disqualifying any candidate for the office of regional superintendent of schools who has not attained a master's degree, 20 semester hours of credit in professional education at the graduate level, and four years of teaching experience); N.J. STAT. ANN. § 54:1-35.25 (West 1986) (requiring candidate for elected office of tax assessor to pass written examination and complete a four year degree program); OHIO REV. CODE ANN. § 311.01 (Banks-Baldwin 1995) (requiring candidate for elected office of sheriff to have attained a high school diploma or its equivalent, a valid certificate of law enforcement training, and to submit to a fingerprint search of criminal records).

public office.[7] In addition, many States will not place the name of a candidate for public office on the ballot unless the candidate has filed a detailed financial disclosure statement setting forth the candidate's personal and family sources of income.[8]

All of these eligibility restrictions are legislative classifications that permissibly limit the field of available candidates for elective office. None of these classifications burden the rights of "suspect classes" or a constitutional right that has been deemed "fundamental".[9] Therefore, when Georgia's drug testing requirement for prospective candidates is viewed against the spectrum of other eligibility requirements, it is clear that O.C.G.A. section 21-2-140 is a permissible ballot access regulation.

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[7] See Appendix E for survey of statutes disqualifying candidates for office if they currently occupy another elected office.

[8] See Appendix F for survey of statutes conditioning eligibility for public office on the filing of a personal financial disclosure statement. These statutes are not campaign disclosure requirements but rather laws that require the prospective candidate to reveal sources of personal income.

[9] *Gregory*, 501 U.S. at 470-71 (holding that, unless the candidate eligibility requirement burdens the rights of members of a suspect class or a constitutional right that is fundamental, requirement need only satisfy rational basis test).

C. Mandatory Drug Testing of Candidates Does Not Impermissibly Burden the Constitutional Rights of Candidates or Voters

Petitioners contend that O.C.G.A. section 21-2-140 improperly restricts the rights of voters to choose their elected officials. Pet'rs' Br. at 33. This argument begs the question. All ballot access measures restrict to some degree the rights of voters to select their elected representatives. *Anderson*, 460 U.S. at 788. For example, Colorado law provides that "[n]o person is eligible to be a candidate for more than one office at one time[.]" COLO. REV. STAT. ANN. § 1-4-501(2) (West 1996). This law clearly limits the choice of Colorado voters by denying them the opportunity to accept or reject a candidate who seeks more than one public office. Yet, this Court has found such limitations to be only a "*de minimis* interference" with the rights of candidates and voters. *Clements*, 457 U.S. at 971-72 (upholding, against First and Fourteenth Amendment challenge, Texas law that disqualified prospective candidates if they occupied another public office).

The issue is not whether a ballot access regulation limits the choice of voters to select a particular candidate; the issue is the extent to which the challenged eligibility requirement burdens the First and Fourteenth Amendment rights of voters. *See Burdick*, 504 U.S. at 433; *Anderson*, 460 U.S. at 789. Petitioners argue that Georgia's drug testing requirement is a severe restriction on their rights of free speech because it forces them to submit to what they consider to be an illegal search. Pet'rs' Br. at 25-26. The Court should reject this argument for three reasons.

First, Georgia does not compel its citizens to take a drug test but merely conditions a candidate's eligibility for the ballot on the candidate testing negative for certain designated narcotics. In this regard, O.C.G.A. section 21-2-140 is very similar to the financial disclosure requirements enacted by many States. For instance, New Mexico law provides that

> [a]ny candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement . . . before the final date for the withdrawal of candidates . . . shall not have his name printed on the election ballot.

N.M. STAT. ANN. § 10-16A-3(G) (Michie 1995). In order to comply with this requirement, a candidate and the candidate's spouse must reveal, *inter alia*, 1) all sources of gross income of more than $5,000; 2) a general description of the type of real estate owned in New Mexico other than a personal residence; 3) all New Mexico business interests valued in excess of $10,000 and any position held in the business; 4) any memberships on the boards of for-profit enterprises in New Mexico; 5) all New Mexico professional licenses; and 6) any state agency to which the candidate or spouse sold goods or provided services in excess of $5,000. *Id.* § 10-16A-3(A)-(C).[10]

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[10] Nevada law also illustrates the operation of financial disclosure requirements for candidates. NEV. REV. STAT. § 281.561 (1977). The candidate must reveal his or her length of residence in Nevada; each source of income, including the income of any members of the candidate's household; the specific location and use of any real estate other than a personal residence; the names of each creditor to whom the candidate or

(continued...)

Requiring a candidate and the candidate's spouse to reveal in detail their sources of personal income is arguably more invasive than the drug testing requirement of O.C.G.A. section 21-2-140.[11] "It can scarcely be denied that the public exposure of one's wallet or purse is, in the abstract, an invasion of privacy." *DeMasi v. Weiss*, 669 F.2d 114, 119 (3d Cir. 1982). Unlike a drug test -- which discloses only whether an individual has engaged in illegal conduct -- financial disclosure encompasses many perfectly

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[10](...continued)
family member owes certain types of debts in excess of $5,000; certain gifts valued in excess of $200 which the candidate received during the previous taxable year; and a list of each business entity with which the candidate or family member is involved as an officer, director, trustee or which the candidate or family member owns in excess of 1% of the outstanding stock. *Id.* § 281.571(1).

[11] Phyllis T. Bookspan, *Jar Wars: Employee Drug Testing, The Constitution, and the American Drug Problem*, 26 AM. CRIM. L. REV. 359, 400 (1988) (noting that, during oral argument in *National Treasury Employees Union v. von Raab*, 489 U.S. 656 (1989), "Justice Scalia suggested that the financial disclosure required of federal judges may be more intrusive than the drug test" challenged in that case). Courts have widely recognized the intrusive nature of financial disclosure statutes. *See, e.g., Fraternal Order of Police, Lodge No. 5 v. City of Philadelphia*, 812 F.2d 105, 118 (3d Cir. 1987) (commenting that "[i]t would be incompatible with the concept of privacy to permit protected [financial] information and material to be publicly disclosed"); *Barry v. City of New York*, 712 F.2d 1554, 1561 (2d Cir. 1983) ("[P]ublic disclosure of financial information may be personally embarrassing and highly intrusive.").

legal but often highly personal matters.[12] Federal courts, however, have generally sustained financial disclosure statutes from challenges filed by candidates who claimed infringement of their right to seek elected office and their right to privacy.

In *Plante v. Gonzalez*, 575 F.2d 1119 (5th Cir. 1978), the Fifth Circuit upheld Florida's requirement that candidates for elected office submit extensive and detailed information regarding the candidate's personal finances and business interests. Writing for the court, Judge John Minor Wisdom acknowledged that "[d]isclosure requirements may deter some people from seeking office," but he noted that

> mere deterrence is not sufficient for a successful constitutional attack. Otherwise, official salary levels or the location of the capital city might furnish the basis for a constitutional attack.

Id. at 1126. The Fifth Circuit sustained Florida's statute because

> the disclosure requirements d[id] not limit the choices of any particular group of voters. There [wa]s no reason to believe that those most sensitive to their privacy w[ould] be Republicans or Democrats, liberals or conservatives, blacks or whites.

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[12] A financial disclosure statute structured like O.C.G.A. § 21-2-140 would permit confidential submission of financial data to a public accountant, with a public certification that the data revealed no conflict of interest or other illicit activity.

Id at 1127.[13]

The same can be said of Georgia's drug testing requirement. O.C.G.A. section 21-2-140 applies to all candidates for State and local office without regard to party affiliation or viewpoint. There is no reason to believe that petitioners and members of the Libertarian Party are the only candidates that oppose drug testing. Political opposition to mandatory testing programs has generally crossed party lines.[14] Indeed, many prominent Republicans

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[13] *See also Adams*, 511 F.2d at 703 ("Voters' rights are not infringed where a candidate chooses not to run because he is unwilling to comply with reasonable state requirements. They are no more affected by a candidate's unwillingness to pay a reasonable filing fee than they are when he refuses to comply with financial disclosure laws, or, for that matter, a reasonable petitioning requirement.").

[14] *E.g.*, Eliot Brenner, *Senate Considers Sweeping Anti-Drug Measure*, UNITED PRESS INT'L, Oct. 4, 1989, at 1, *available in* LEXIS, News Library, Wire File (noting that Senate rejected President Bush's proposal to require mandatory drug testing for prisoners, parolees, and persons free on bail and that proposal "ran into stiff opposition from Democrats and Republicans"); Bill McAllister, *Presidential Plan for Drug Testing of Federal Workers Suffers Setback: Senate Panel Votes to Exempt VA Employees from Executive Order*, WASH. POST, Aug. 4, 1987, at A13 (explaining that the Senate Veteran's Affairs Committee rejected President Reagan's plan for drug testing most of the employees working for the Veteran's Administration and that a bipartisan group of Republican and Democratic Senators defeated the bill in committee); Mike Causey, *Drug Testing Guidelines*, WASH. POST, Apr. 8, 1988, at B2 (discussing congressional task force monitoring legislation affecting civil service employees and

(continued...)

and Democrats have voiced opposition to mandatory drug testing.[15] Therefore, O.C.G.A. section 21-2-140 does not discriminate against any particular group of voters.

Second, Georgia's drug testing requirement does not regulate advocacy by candidates. Contrary to petitioners' suggestion, O.C.G.A. section 21-2-140 does not exclude candidates who oppose the so-called "war on drugs", candidates who oppose drug testing, or candidates that favor legalization of drugs. A candidate's viewpoint is not a relevant consideration under the statute. The statute only excludes candidates that fail to certify passing a drug test.

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[14](...continued)
that group consisted of both Democrats and Republicans that "generally favor limiting drug testing to jobs involved in health, safety or national security").

[15] The Republican Party's 1996 nominee for Vice-President, Jack Kemp, has publicly opposed mandatory drug testing of high school students. *Dole: "I'm Talking the Issues"*, UNITED PRESS INT'L, Jan. 11, 1988, at 1, *available in* LEXIS, News Library, Wire File. Other prominent opponents of mandatory drug testing include Republican Congresswoman Nancy Johnson of Connecticut, as well as Democratic Congressmen Steny Hoyer of Maryland and William Clay of Missouri. Dirk Johnson, *The Race for Congress; Amenta in Uphill Fight Against Johnson*, N.Y. TIMES, Oct. 26, 1986, § 11CN, at 1; Bill McAllister, *Presidential Plan for Drug Testing of Federal Workers Suffers Setback: Senate Panel Votes to Exempt VA Employees from Executive Order*, WASH. POST, Aug. 4, 1987, at A13; Robert L. Koenig, *Subway Crash Reignites Drug-Testing Debate*, ST. LOUIS POST-DISPATCH, Aug. 30, 1991, at 1A.

Therefore, O.C.G.A. section 21-2-140 restricts access to the ballot based only on the candidate's conduct.[16]

As noted above, many States vacate the office of an elected official upon his or her conviction of a felony.[17] In Georgia, a public official's conviction of a felony involving moral turpitude or of a crime in another jurisdiction that is defined as a felony provides sufficient grounds to vacate the office. GA. CODE ANN. § 45-2-1(3). Georgia's drug testing requirement for candidates does not impermissibly burden petitioners' right to obtain access to the ballot since Georgia has done nothing more than define a disability for elected office that could undeniably serve as grounds for immediate removal from office if elected.

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[16] Because the Georgia statute does not restrict access to the ballot based on the viewpoint of the candidate, petitioners' reliance on *Communist Party of Indiana v. Whitcomb*, 414 U.S. 441 (1974) is misplaced. In *Whitcomb*, a five Justice majority struck down a portion of an Indiana candidate eligibility statute that required candidates for office to provide an affidavit, under oath, that they did not advocate the overthrow of local, state, or national governments by force or violence. Though it found the loyalty oath in violation of the First and Fourteenth Amendments, the majority expressly premised its holding on the fact that the statute regulated advocacy rather than action. *Id.* at 447, 449-50. *Whitcomb* provides no guidance in the case at bar because the Georgia drug testing requirement, unlike Indiana's loyalty oath, does not regulate advocacy.

[17] *See, e.g.*, CAL. GOV'T CODE § 3000 (West 1995); FLA. CONST. ART. 6, § 4(a) (West 1995); IND. CODE ANN. § 3-8-1-5(b)(3)(B) (West 1988); MICH. COMP. LAWS ANN. § 201.3(5) (West 1989).

Third, Georgia's drug testing requirement imposes only a minimal burden on a candidate's privacy interests. Petitioners' suggest that political candidates are not a class that has historically been regulated and, thus, maintain undiminished expectations to privacy. Pet'rs' Br. at 6. Even a cursory review of federal and state campaign finance laws as well as ballot access regulations belies petitioners' position. And, as the financial disclosure statutes starkly illustrate,[18] a candidate for public office has a diminished expectation to privacy. *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 780 (1989) (Blackmun, J., concurring); *Chandler v. Miller*, 73 F.3d 1543, 1547 (11th Cir. 1995) (noting that "candidates for high office must expect the voters to demand some disclosures about their physical, emotional, and mental fitness for the position"). A candidate's privacy interest with respect to the disclosure of personal and family income certainly equals or exceeds any asserted privacy interest a candidate may have with respect to disclosing illegal conduct.

One reason that the Court has not required heightened scrutiny of all ballot access measures is that the application of a strict scrutiny analysis would effectively tie the hands of States in their respective efforts to develop candidate qualifications. *See Burdick*, 504 U.S. at 433; *Clements*, 457 U.S. at 963. The Court has instead adopted a flexible

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[18] Alaska's financial disclosure statute acknowledges that candidates for elected office have a diminished expectation of privacy and that the public has a right to know the candidate's financial and business interests in order to foster greater public confidence in persons seeking elected office. *See* ALASKA STAT. § 39.50.10 (Michie 1974).

standard of review which weighs the nature of the candidate's asserted interest against the interests offered by the State as a justification for the ballot access regulation. *Burdick*, 504 U.S. at 433; *Anderson*, 460 U.S. at 789. Courts applying this standard have utilized the rational basis test to evaluate the constitutionality of candidate qualifications such as financial disclosure requirements,[19] residency requirements,[20] minimum signature requirements,[21] and testing requirements.[22]

Georgia's drug testing requirement for prospective candidates imposes a *de minimis* burden -- if any at all -- upon petitioners' constitutional rights. In addition, O.C.G.A. section 21-2-140 is a reasonable,

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[19] *Plante*, 575 F.2d at 1126-27 (rejecting constitutional attack on Florida's financial disclosure requirement for candidates and elected officials because ballot access requirement furthered important state interests).

[20] *MacDonald v. City of Henderson*, 818 F. Supp. 303, 305-306 (D. Nev. 1993) (affirming municipality's one-year residency requirement for city council candidates and finding that ordinance need only satisfy the rational basis test).

[21] *Rockefeller v. Powers*, 74 F.3d 1367, 1382 (2d Cir. 1995) (applying rational basis test to uphold New York statute that required candidates for the New York delegation to the Republican National Convention to obtain a minimum number of signatures of registered Republicans in their congressional district).

[22] *Combs v. Huff*, 858 S.W.2d 160, 163-64 (Ky. 1993) (applying rationality review to sustain Kentucky statute that required candidate's for the office of circuit court clerk to pass an eligibility examination).

nondiscriminatory restriction upon the rights of candidates and voters. Accordingly, the Court's review is limited to determining whether Georgia's drug testing requirement is rationally related to a legitimate governmental interest.[23]

II. MANDATORY DRUG TESTING OF PROSPECTIVE CANDIDATES FURTHERS TWO LEGITIMATE AND IMPORTANT STATE INTERESTS

A. Mandatory Drug Testing of Prospective Candidates Furthers the State's Interest in Preventing the Abuse of Public Trust by Elected Officials

Mandatory drug testing serves an important function in Georgia's effort to screen out prospective candidates who would be unsuitable for elective office. It is beyond peradventure that public trust is essential to the successful operation of a representative form of government. *E.g.*, *Brown v. Hartlage*, 456 U.S. 45, 52 (1982). When elected officials charged with the responsibility of writing and faithfully executing the laws violate the very laws they are

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[23] *See, e.g., Gregory*, 501 U.S. at 470-73 (applying rationality review to uphold Missouri election law that barred candidates for the state judiciary who were over the age of 70); *Clements*, 457 U.S. at 967-68, 972-73 (finding that Texas law that prevented office holder from seeking another elected office before the expiration of his or her existing term of office imposed only a *de minimis* burden on the candidate's constitutional rights and that ballot access law was rationally related to State's interest in ensuring that office holders devote their full energies to the position they currently occupied).

sworn to uphold, it breads cynicism and weakens the body politic. *E.g., United States v. Mississippi Valley Generating Co.*, 364 U.S. 520, 562 (1961). Thus, it is not surprising that many States have enacted statutes vacating the office of elected officials convicted of crimes,[24] or disqualifying potential candidates because of past criminal conduct.[25] These statutes, "like all legal classifications, [are] founded on a generalization[,]" *Gregory*, 501 U.S. at 473, that excluding felons from the ranks of elective office will lessen the risk of further violations of the public trust.[26]

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[24] *See, e.g.*, CAL. GOV'T CODE § 3000 (West 1995); FLA. CONST. ART. 6, § 4(a) (West 1995); IND. CODE ANN. § 3-8-1-5(b)(3)(B) (West 1988); MICH. COMP. LAWS ANN. § 201.3(5) (West 1989).

[25] *See, e.g.*, FLA. CONST. ART. 6, § 4(a) (West 1995); MONT. CONST. ART. IV, § 4 (1994); OKLA. STAT. ANN. tit. 26 § 5-105a(A) (West 1991).

[26] *Cf. Gregory*, 501 U.S. at 473. In *Gregory*, several Missouri state court judges challenged a Missouri law that disqualified them as eligible candidates for judgeships because of their advanced age. Missouri argued that the purpose of the law was to maintain an active judiciary that was not hindered by concerns of health or vigor. The Court agreed with the state judges that it was not necessarily true that all judges over 70 suffer significant deterioration in their performance, or that even many suffer diminished performance because of age. The Court found, however, that the "people of Missouri rationally could conclude that the *threat* of deterioration at age 70 is sufficiently great . . . that they will require all judges to step aside at age 70." *Id.* (emphasis added).

Georgia's drug testing requirement for prospective candidates serves essentially the same function. By screening from the pool of potential candidates for elective office those persons who use illegal narcotics, Georgia decreases the likelihood that public officials will be susceptible to the dangers that accompany drug use and trafficking. Elected officials who use illegal drugs are at a greater risk of extortion and blackmail than public officials who are drug free.[27] Public officials who are addicted to illegal drugs are more likely to need large sums of money to support their addictions and, thus, more likely to engage in official corruption.[28] In short, Georgia has legitimate and even compelling reasons for excluding active drug users from the universe of potential office holders.

Petitioners repeatedly argue that drug testing political candidates is unwarranted because "nothing supports the suspicion of any drug related activity among candidates."

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[27] *E.g.*, Maya Bell, *Politician Says Tale of Sex, Crack All Lies; A Miami Mayoral Candidate Claims Criminals Are Trying to Frame Him*, ORLANDO SENTINEL TRIB., May 16, 1992, at A1 (discussing public allegations of drug use made against Miami City Commissioner and candidate for Mayor, who claimed that allegations were made by "a cadre of career criminals" who were telling "wild tales about him to extort money").

[28] *E.g.*, Arnold H. Lubasch, *Housing Aides Are Charged in Bribe Plan*, N.Y. TIMES, Feb. 10, 1989, at B1 (describing bribery charges brought against New York City Housing Inspectors who allegedly demanded money in order to support their drug addictions in return for ignoring code violations and indicating that Mayor Ed Koch announced a new drug testing program "because we now know that many of these inspectors are extorting bribes to feed their drug habits").

Pet'rs' Br. at 23. One needs only to read the morning paper to appreciate that drug use by candidates and elected officials is a matter of great concern to communities throughout the nation.[29] Nor has the problem of drug use by office holders escaped the notice of the courts.[30]

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[29] *E.g., Cooperhill Mayor Faces Charges of Growing Marijuana*, STATE NEWS BRIEFS, July 17, 1996, at 1, *available in* LEXIS, News Library, Current File (noting that Mayor of Cooperhill, Tennessee was indicted for drug possession by grand jury shortly after presiding over ceremony for passing of Olympic torch); Maxine Bernstein, *Drug Charges Dropped Against City Worker*, HARTFORD COURANT, May 10, 1996, at B1 (describing how city councilman from Hartford, Connecticut, who had been convicted in 1990 for selling drugs but received a suspended sentence, pleaded guilty to a one count charge of possession of narcotics); *Asbury Park Press*, Mar. 3, 1996, § AA, at 4, *available in* LEXIS, News Library, Current File (indicating that Mayor of Asbury Park, New Jersey resigned last fall because of drug possession charges); Deborah Kelly, *Informer Receives 6 Months in Jail; Man Helped Police in Richardson Case*, RICHMOND TIMES-DISPATCH, Nov. 29, 1995, at B-1 (discussing drug sting operation that led to arrest of Richmond, Virginia City Councilman for selling heroin); *Mayor, Wife Face Counts in Drug Case*, ARKANSAS DEMOCRAT-GAZETTE, Apr. 20, 1995, at 4B (noting that a federal grand jury indicted the Mayor of Bradford, Arkansas and his wife for possession of 65 pounds of marijuana).

[30] *See, e.g., United States v. Barry*, 938 F.2d 1327 (D.C. Cir. 1991) (affirming conviction of Mayor of the District of Columbia for possession of cocaine); *Committee on Legal Ethics of W. Va. State Bar v. Roark*, 382 S.E.2d 313 (W. Va. 1989) (approving disciplinary sanctions against attorney who was the Mayor of Charleston, West Virginia at the time that he was (continued...)

Although the fear of public condemnation may deter many public officials from using drugs, such fear would make those officials who use drugs particularly vulnerable to blackmail. Thus, Georgia is entitled to be concerned about any possibility of drug use among its elected officials even if the level of drug use may be lower than among other groups.

Petitioners apparently believe that, in order to justify O.C.G.A. section 21-2-140, Georgia must proffer empirical data that conclusively demonstrates a growing problem of drug use by office holders. Pet'rs' Br. at 23. To the contrary, the Constitution does not require a State to offer evidence in support of a ballot access regulation. *Munro v. Socialist Workers Party*, 479 U.S. 189, 195-96 (1986). For example, in *Munro*, the Court held that Washington state did not have to introduce evidence of actual voter confusion and ballot overcrowding to justify a statute that required minor-party candidates to receive a minimum number of primary votes in order to gain access to the general election ballot. The Court rejected such a requirement because it "would necessitate that a State's political system sustain some level of damage before the legislature could take corrective action." *Id.* at 195. The *Munro* Court held that States "should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively[.]" *Id.*

There can be little doubt that drug use by elected officials is a serious problem that falls within the province of Georgia's legitimate legislative authority, and the

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[30](...continued)
arrested and convicted for possession of cocaine).

Constitution does not require Georgia to forestall legislation until after an elected official trades a government contract to avoid public disclosure of drug use. Georgia believes that drug use by elected officials poses a sufficient threat to the public trust to warrant legislative action and petitioners cannot challenge that judgment unless the "'facts on which the classification is apparently based could not reasonably be conceived to be true.'" *Gregory*, 501 U.S. at 473 (quoting *Vance v. Bradley*, 440 U.S. 93, 111 (1979)).

B. Mandatory Drug Testing of Prospective Candidates Furthers the State's Interest in the Public Accountability of Elected Officials

Mandatory drug testing of candidates for public office serves another important State interest. O.C.G.A. section 21-2-140 requires elected representatives to set the example for the general public[31] and, in particular, for the government employees that have increasingly been asked or required to participate in mandatory drug testing

[31] For instance, during the trial of Washington Mayor Marion Barry, Barry conceded that -- as mayor -- he held a position of public trust that made him a role model for the community. *Barry*, 938 F.2d at 1338. In a letter to the trial judge before sentencing, Mayor Barry acknowledged that he "'stood before the public -- before our youth -- as an example, a person that [sic] should have been a role model because he was the number-one man in the District of Columbia Government.'" *Id.* (quoting letter). Barry also admitted that, by virtue of his drug use, he had "'contributed to the anguish that illegal drugs have inflicted on this city in so many ways for so long.'" *Id.*

programs.[32] Drug testing is widespread for many categories of government employees, including law enforcement, corrections officials, and others whose duties require a high degree of integrity and protection of public safety. Georgia can reasonably ask its elected officials to meet the same sort of requirement.

Petitioners belittle the weight of this State interest and argue that symbolism cannot justify a drug testing program. Pet'rs' Br. at 20. Symbolism, however, has always been recognized as a legitimate governmental interest.[33] Indeed, one of the principal accomplishments of the 104th Congress was the passage of the Congressional Accountability Act, which applied for the first time to Congress the workplace

[32] *E.g.*, UNITED PRESS INT'L, July 20, 1988, BC cycle, *available in* LEXIS, News Library, Current File (discussing proposal by United States Senate candidate from Florida to implement a mandatory testing program for Congress and quoting candidate, a former United States Attorney who prosecuted drug lords, as follows: "[I]f Congress is going to pass any laws requiring drug testing, then it has a duty to live by the same laws and set an example"); UNITED PRESS INT'L, Feb. 17, 1987, BC cycle, *available in* LEXIS, News Library, Current File (describing proposal by Oregon state legislator to implement drug testing program for members of legislature and quoting one state senator as follows: "If we are going to require it for other groups then I feel we should subject ourselves to the same thing").

[33] *See, e.g., Carey v. Population Servs. Int'l*, 431 U.S. 678, 715 (1977) (Stevens, J., concurring) (stating that "the State may properly perform a teaching function").

laws that apply to the public-at-large.[34] One of the primary reasons proffered in support of the legislation was that the Act responded to the "growing public cynicism about Congress" that had arisen, in part, because Congress had exempted itself from the laws that govern private employers.[35] The Senate Report acknowledged "the reality-of a double standard of special privileges for the legislative branch."[36] While symbolism alone may not qualify as a compelling governmental interest, it cannot be gainsaid that a State has a legitimate interest in requiring its representatives to lead by example.

Many corporations impose drug testing requirements on top executives as well as rank-and-file employees. Military drug testing programs include generals and admirals as well as privates and seamen. To exempt high-level officials from drug testing on the grounds that they are less likely to be drug users would create a double standard and undermine the morale of those employees who are subject to testing.

Georgia's drug testing requirement for prospective candidates is rationally related to the State's legitimate governmental interests of preserving the public trust and promoting public accountability. Accordingly, O.C.G.A. section 21-2-140 -- like the myriad of ballot eligibility requirements discussed above -- withstands judicial scrutiny and must be sustained.

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[34] 2 U.S.C. §§ 1301-1438 (Supp. 1995).

[35] S. REP. No. 103-397, 103d Cong., 2d Sess. 1994, 1994 WL 548739 (Leg. Hist.), at *5.

[36] *Id.*

CONCLUSION

For the foregoing reasons, the judgment of the United States Court of Appeals for the Eleventh Circuit should be affirmed.

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APPENDIX A

Survey of Statutes Imposing Minimum Age Requirements for Public Office

Alabama: Ala. Code §§ 11-43C-17, 11-44-38, 11-44E-42 (1996).

Colorado: Colo. Rev. Stat. Ann. § 1-3-102 (West 1989).
Colo. Rev. Stat. Ann. § 1-4-501 (West 1996).

Georgia: Ga. Code Ann. § 45-2-1 (1996).

Guam: 5 Guam Code Ann. § 40108 (1995).

Iowa: Iowa Const. art. 3, § 5 (West 1989).

Kentucky: Ky. Rev. Stat. Ann § 160.180(2)(a) (Banks-Baldwin 1996).

Louisiana: La. Const. art. 4, § 2 (West 1977).
La. Rev. Stat. Ann. § 451 (West 1979).
La. Rev. Stat. Ann. § 2492 (West 1983).

Minnesota: Minn. Const. art. 7, §§ 1, 6 (West 1976).
Minn. Const. art. 5, § 2 (West 1976).
Minn. Stat. Ann. § 204B.06 (West 1992).

Mississippi: Miss. Code Ann. § 19-21-103 (1995).

Missouri: Mo. Ann. Stat. § 56.010 (West 1989).
Mo. Ann. Stat. § 249.140 (West 1990).

Nevada: 37 Nev. Rev. Stat. § 218.010 (1995).
Nev. Const. art. 2, § 1 (1995).

*New Hampshire:*N.H. Rev. Stat. Ann. § 655.28 (1995).
*New Jersey:*N.J. Const. art. 4, § 1, § 2 (West 1971).
*New Mexico:*N.M. Stat. Ann. § 21-13-8(B)
(Michie 1996).
New York: N.Y. Const. art. 6, § 25 (McKinney 1987).
N.Y. Jud. Law § 23 (McKinney 1983).
*Oklahoma:*Okla. Const. art. 37, §§ 5, 17 (West 1981).
Okla. Const. art. 6, § 3 (West 1981).
Pennsylvania: 25 Pa. Cons. Stat. Ann. § 2780.1
(West 1994).
Puerto Rico: P.R. Const. art. III, § 5 (1982).
Tennessee: Tenn. Code Ann. §§ 6-53-109(a),
8-18-101 (1996).
Texas: Tex Const. art. 3, § 7 (West 1984).
Wisconsin: Wis. Stat. Ann. § 8.21 (West 1996).

APPENDIX B

Survey of Statutes Disqualifying Candidates and Office Holders Because of Criminal Convictions

Alabama: Ala. Code § 11-43C-17 (1996).
Arizona: Ariz. Const. art. 7, § 2 (West 1984).
California:Cal. Gov't Code § 3000 (West 1995).
Florida: Fla. Const. art. 6, § 5(a) (West 1995).
Georgia: Ga. Code Ann. § 45-2-1(1) (1996).
Ga. Const. art. 6, § 7(a) (1996).
Illinois: 65 Ill. Comp. Stat. Ann. § 5/3.1-10-5(b) (West 1996).
Indiana: Ind. Code Ann. §§ 3-8-1-5(b)(3),
3-8-6-12(b)(5) (West 1988).
Iowa: Iowa Code Ann. § 277.4 (West 1996).
Iowa Code Ann. § 376.4 (West 1976).
Iowa Code Ann. §§ 43.18, 43.67
(West 1991).
Kentucky: Ky. Const. §§ 145.1, 150
(Banks-Baldwin 1995).
Louisiana: La Const. art. 1, § 10 (West 1977).
Michigan: Mi. Const. art. 4, § 7 (West 1985).
Mi. Comp. Laws Ann. § 201.3(5)
(West 1989).
Minnesota:Minn. Const. art. 7, § 1 (West 1976).
Minn. Code Ann. § 351.02(5) (West 1990).

Mississippi:Miss. Code Ann. §§ 23-15-299(6), 23-15-309(4) (1995).
Miss. Code Ann. § 23-15-11 (1995).

Montana: Mont. Const. art. IV, § 4 (1995).

Nevada: Nev. Const. art. 15, § 3 (1995).
Nev. Const. art. 2, § 1 (1995).

New Jersey: N.J. Stat. Ann. § 19:4-1(6)-(8) (West 1989).

New York: N.Y. Pub. Off. §§ 3, 30(e) (McKinney 1988).

Oklahoma: Okla. Stat. Ann. tit. 26, § 5-105a(A) (West 1991).

Oregon: Or. Rev. Stat. § 206.015(1)(c) (1995).

Pennsylvania: Pa. Const. art. 2, § 7 (West 1994).
25 Pa. Cons. Stat. Ann. § 2911(e) (West 1994).

Rhode Island: R.I. Const. art. 2, § 1 (1995).

South Dakota: S.D. Codified Laws § 3-4-1(6) (1996).

Texas: Tex. Elec. Code Ann. § 141.001(a)(4) (West 1986).

Wisconsin: Wis. Stat. Ann. §§ 8.21, 17.03(5) (West 1996).

APPENDIX C

Survey of Statutes Disqualifying Voters, Candidates and Office Holders Because of Mental Incompetence

Alaska: Alaska Const. art. 5, § 2 (Michie 1996) (stating that "[n]o person may vote who has been judicially determined to be of unsound mind unless the disability has been removed").

Kentucky: Ky. Const. § 145 (Banks-Baldwin 1995) (stating that "[i]diots and insane persons" may not vote).

Montana: Mont. Const. art. IV, § 2 (1995) (disqualifying from voting any person who "is of unsound mind, as determined by a court").

Mont. Code Ann. § 13-1-111(3) (1995) (disqualifying from voting any "person adjudicated to be of unsound mind . . . unless he has been restored to capacity as provided by law").

Rhode Island: R.I. Gen. Laws § 17-14-1(3) (1988) (requiring candidate to file certification that "he or she has not been lawfully adjudicated to be non compos mentis, of unsound mind").

Texas: Tex. Const. art. 6, § 1 (West 1993) ("The following classes of persons shall not be allowed to vote in this State, to wit: . . . Idiots and lunatics.").

Tex. Elec. Code Ann. § 141.001(a)(4) (West 1986) ("To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must: . . . have not been determined mentally incompetent by a final judgment of a court.").

West Virginia: W. Va. Const. art. 4, § 1 (1996) (stating that no person is entitled to vote if they have "been declared mentally incompetent by a court of competent jurisdiction").

APPENDIX D

Survey of Statutes Requiring Judges and Prosecutors to be Lawyers and Practicing Members of the State Bar

Alabama: Ala. Code § 12-17-63 (1996).

Georgia: Ga. Code Ann. § 15-18-3(4) (1996).
Ga. Const. art. 6, § 8, ¶ I(b) (1996).

Idaho: Idaho Const. art. V, § 18 (1996).

Indiana: Indiana Code § 3-8-1-17(1) (West 1988).
Indiana Code § 3-8-1-18(2) (West 1988).
Indiana Code § 3-8-1-19 (West 1988).
Indiana Code § 3-8-1-30(4)(A) (West 1988).

Kansas: Kan. Stat. Ann. § 22a-102 (West 1995).

Louisiana: La Const. art. 5, § 24 (West 1977).
La Const. art. 5, § 26 (West 1977).

Michigan: Mi. Comp. Laws Ann. § 600.8201 (West 1987).
Mi. Comp. Laws Ann. § 730.508 (West 1993).

Missouri: Mo. Rev. Stat. § 56.010 (West 1989).

Montana: Mont. Const. art. VI, § 3(2) (1996).

Nevada: Nev. Rev. Stat. Ann. § 2.020.2 (Michie 1995).
Nev. Rev. Stat. Ann. § 252.010.2 (Michie 1995).

North Dakota:N.D. Const. art. 6, § 10 (1994).
Ohio: Ohio Rev. Code Ann. § 309.02 (Banks-Baldwin 1992).
West Virginia: W. Va. Const. art. 8, § 7 (1996).

APPENDIX E

Survey of Statutes Disqualifying Candidates for Public Office if They Occupy Elected Office or Are Seeking Another Office

Colorado: Colo. Rev. Stat. Ann. § 1-4-501 (West 1996).
District of Columbia: D.C. Code Ann. § 31-101 (1981).
Florida: Fla. Stat. Ann. § 110.233 (West 1996).
Iowa: Iowa Code Ann. § 69.2(9) (West 1991).
Minnesota: Minn. Const. art. 4, § 5 (West 1976).
Minn. Const. art. 6, § 6 (West 1976).
Montana: Mont. Const. art. VI, § 5(2) (1994).
New York: N.Y. County Law § 411 (McKinney 1991).

APPENDIX F

Survey of Statutes Conditioning Eligibility for Public Office on the Filing of a Financial Disclosure Statement

Alaska: Alaska Stat. §§ 39.50.010, 39.50.020 (Michie 1996) (requiring candidates for state elective office to file a personal financial disclosure statement at the time of filing a declaration of candidacy).

Arizona: Ariz. Rev. Stat. Ann. §§ 38-542, 38-543, 38-544 (West 1996) (stating that "[a] candidate for public office . . . shall file a financial disclosure statement covering the preceding twelve month period" and subjecting candidate to criminal penalties for knowingly failing to file).

Colorado: Colo. Rev. Stat. Ann. §§ 1-45-105, 24-6-202 (West 1989) (requiring candidates to file a detailed disclosure of personal income and finances within ten days of becoming a candidate and stating that "[f]ailure of any person to file . . . shall result in the disqualification of such person as a candidate").

Florida: Fla. Stat. Ann. §§ 99.061, 112.3145 (West 1996) (requiring "each candidate for a constitutional office" to file a "full and public disclosure of financial interests", including detailed reporting of personal income and real estate interests).

Georgia: Ga. Code Ann. § 21-5-50 (1996) (requiring candidates to file disclosure statements revealing sources of personal income, including honoraria, fiduciary positions held by the candidate, and ownership interests that exceeds 10% of any enterprise).

Hawaii: Haw. Rev. Stat. Ann. § 84-17 (Michie 1996) (requiring candidates for state elective offices or the constitutional convention to file financial disclosure requirements that include the financial interests of the candidate and members of the candidate's household such as all sources of income exceeding $1,000 and every ownership or beneficial interest in property valued in excess of $5,000).

Haw. Const. art. 14 (Michie 1996) ("The financial disclosure provisions shall require all elected officers, all candidates for elective office and such appointed officers and employees . . . to make public financial disclosures.").

Iowa: Iowa Code Ann. § 68B.35 (West 1996) (requiring candidates for state and local offices to file financial disclosure requirements within 30 days of filing nomination papers and listing all sources of income in excess of $1,000).

Kentucky: Ky. Rev. Stat. Ann. § 65.003 (Banks-Baldwin 1996) (requiring all candidates for state offices and municipal offices to file financial disclosure statements).

Maryland: Md. Code Ann. State Gov't §§ 15-601, 15-605 (1995) (providing that "[i]f a [financial disclosure] statement . . . is overdue and is not filed within 20 days after the candidate receives . . . written notice of the

failure to file, the candidate is deemed to have withdrawn the candidacy").

New Jersey: N.J. Stat. Ann. §§ 19:44B-1, 19:44B-2, 19:44B-8 (West 1989) (providing a civil penalty of up to $2,000 if candidate fails to file a financial disclosure statement detailing personal sources of income and sources of income of members of his household).

New Mexico: N.M. Stat. Ann. § 10-16A (Michie 1995) (requiring candidate to file, at time of declaring candidacy, a financial disclosure statement listing all sources of income for the candidate and spouse as well as real estate holdings in New Mexico).

Nevada: Nev. Rev. Stat. §§ 281.561, 281.571 (1996) (stating that, in order to qualify as a candidate for public office, person must file a financial disclosure statement setting forth details of personal finances and business interests).

New York: N.Y. Gen. Mun. Law § 812 (McKinney 1996) (requiring each candidate for local elected office to file financial disclosure statement which contains detailed reporting requirements on sources of personal income, real estate holdings, professional licenses, and interests in securities).

Ohio: Ohio Rev. Code Ann. § 102.02 (Banks-Baldwin 1996) (requiring candidates for state and federal offices to file with state ethics commission detailed financial disclosure statements that list "the amount of every source of income received" from various sources of business activity).

Oklahoma: Okla. Stat. Ann. tit. 51, §§ 319, 321 (West 1996) (requiring candidates for state and federal offices to file at least 10 days before the last day to declare candidacy a financial disclosure statement listing in detail the sources of income including honoraria and interests in securities).

Pennsylvania: 65 Pa. Cons. Stat. Ann. §§ 404, 405 (West 1996) (providing that all candidates for state or local office must file a statement of financial interests before the last day to file a nominating petition and requiring disclosure of direct and indirect sources of income exceeding $1,000, gifts valued in excess of $200, and loans and others debts owed by the candidate).

West Virginia: W. Va. Code §§ 3-1A-7, 6B-2-6 (1996) (requiring candidates for any state, county or municipal office, or school board to file a financial disclosure statement with the state ethics commission).